

## **Senate Bill No. 472**

### **CHAPTER 533**

An act to amend Sections 6450, 6453, and 6455 of, to add Sections 6440, 6459, and 6460 to, and to repeal Section 6458 of, the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor September 28, 1997. Filed  
with Secretary of State September 29, 1997.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**SB 472, Maddy. Fish: triploid grass carp.**

(1) Under existing law, the Department of Fish and Game may issue permits to use triploid grass carp to control aquatic plant pests under specified conditions only in the Counties of Imperial, Riverside, and San Bernardino. Existing law requires the department to report to the appropriate policy and fiscal committees of the Legislature on or before June 1 of each year on the use of triploid grass carp for aquatic plant pest control.

This bill would require the department to manage triploid grass carp and would require the department to define management for this purpose to mean handling, controlling, destroying, or moving species.

This bill would also require the department, beginning in 1998, to include in a specified report to the appropriate policy and fiscal committees of the Legislature, its finding with respect to whether the use of triploid grass carp to control aquatic plant pests should be expanded to 6 more counties or statewide. Upon a finding that the use of triploid grass carp should be expanded to 6 more counties or statewide, the bill would provide for that expansion beginning January 1 of the following year. The bill would specify the 6 counties for expansion, if applicable. Under the bill, if the department finds that the use of triploid grass carp should not be expanded, the department would be required to reconsider that finding in the next year's report. If the department fails to submit the annual report as required, the bill would provide that it shall be conclusively deemed to be the finding of the department that the use of triploid grass carp to control aquatic plant pests should be expanded statewide beginning June 1 of that year.

By authorizing the issuance of permits in additional counties, the revenues from which would be deposited in the Fish and Game Preservation Fund, which is a continuously appropriated fund, the bill would make an appropriation.

This bill would provide that if the department obtains documented and verifiable evidence of escapements of triploid grass carp,

unauthorized use of grass carp, or threats to fish, wildlife, and their habitats, and the Director of Fish and Game makes a written finding to that effect, the department may suspend the permit process, as specified.

(2) Existing law provides that the costs for conducting triploid grass carp programs during the first year of operation shall be funded by a loan from the Pooled Money Investment Account in the General Fund, as specified.

This bill would repeal those provisions.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 6440 is added to the Fish and Game Code, to read:

6440. The Legislature finds and declares that triploid grass carp have the potential to control aquatic nuisance plants in non-public waters allowing for reduced chemical control but that the threat that grass carp pose to aquatic habitat may outweigh its benefits. It is the intent of this section to allow the Department of Fish and Game to use its management authority to provide for the long-term health of the ecosystem in the state including the aquatic ecosystem, and in that context, manage grass carp either through control of movement, eradication of populations, acquisition of habitat and any other action that the department finds will maintain the biological diversity and the long term, overall health of the state's environment. The department shall undertake the management of grass carp in a manner that is consistent with provisions of this code and for the purposes of this section the department shall define management as handling, controlling, destroying, or moving species. The Legislature does not intend for this section to provide a right for the use of triploid grass carp if the department finds that use of the species poses an unacceptable risk to the state's existing ecosystem.

SEC. 2. Section 6450 of the Fish and Game Code is amended to read:

6450. The department shall adopt regulations that provide for the control of aquatic plant pests using artificially introduced triploid grass carp under a permit issued by the department. The regulations shall do all of the following:

(a) Restrict triploid grass carp introductions to those triploid grass carp that have been rendered sterile immediately after the eggs have been fertilized.

(b) Require individual fish to be checked to ensure that a third, triploid, set of chromosomes has been retained, preventing further reproduction by that individual fish.



(c) Limit aquatic plant pest control programs using triploid grass carp to the use of sterile triploid grass carp with documented certification of triploidy to ensure sterility.

(d) Require the identification by tagging of individual fish as the property of each owner.

(e) Require the posting of notices at stocked bodies of water declaring the penalties for removing triploid grass carp.

(f) Limit the permits for the use of triploid grass carp in waters on golf courses located in residential areas to those waters that are determined by the department to be secure from the removal of triploid grass carp to unauthorized waters.

(g) Provide for management of the triploid grass carp populations in a manner consistent with the provisions of this code where the department finds that such actions will benefit the long-term health of the state's biodiversity as a whole.

(h) Until January 1, 1999, the regulations shall not authorize the issuance of permits for the use of triploid grass carp in waters located within condominium areas of any residential area for which a permit may not be issued pursuant to subdivision (f) except at three locations within the area authorized pursuant to this subdivision. The three locations shall be selected by the department in consultation with the Imperial Irrigation District. The limitation to three locations is necessary to enable monitoring of human-induced movement of triploid grass carp to unauthorized waters and to permit the evaluation of the impact of the experiment. The results of the evaluation shall be reported to the Legislature before the use of triploid grass carp is authorized in other similar waters.

SEC. 3. Section 6453 of the Fish and Game Code is amended to read:

6453. (a) On or before March 1 of each year following the first year after triploid grass carp introduction, the permittee shall provide to the department all of the information required by the department, including, but not limited to, the following:

(1) The number and size of triploid grass carp recommended for the waterway stocked.

(2) The number and size of triploid grass carp stocked in the waterway.

(3) The acres of aquatic plants, by species, at the peak of the growing season in the year prior to introduction of triploid grass carp in the waterway stocked.

(4) The acres of aquatic plants, by species, at the peak of the current year growing season.

(b) The annual report shall be submitted until five years after the use of triploid grass carp to control aquatic plant pests is terminated, unless evidence acceptable to the department is provided that all triploid grass carp have been removed from the waterway.

(c) On or before June 1 of each year, the department shall report to the appropriate policy and fiscal committees of the Legislature a summary of the use of triploid grass carp use for aquatic plant pest control compiled from information from permittees annual reports received pursuant to subdivision (a).

SEC. 4. Section 6455 of the Fish and Game Code is amended to read:

6455. The department shall impose conditions in the permit to use triploid grass carp under this article that it finds necessary to prevent escape of the triploid grass carp from the targeted area. The conditions shall include, but are not limited to, the following:

(a) No permit shall be issued for the use of triploid grass carp in waters with an open fresh water connection to other waters of the state.

(b) Any waters in which triploid grass carp are used under this article shall be under the control of the permittee. In addition, barriers to fish movement acceptable to the department shall be in place before introduction of triploid grass carp under this article. Movement of triploid grass carp to areas outside the control of the permittee is prohibited.

(c) Any waters in which triploid grass carp are used under this article shall have sufficient dissolved oxygen and suitable vegetation for consumption to sustain the introduced triploid grass carp, as determined by the department.

(d) Except within closed basins, including the Salton Sea, no permit shall be issued for the use of triploid grass carp within the 100-year flood plain.

(e) Except as provided in Section 6459, permits may be issued pursuant to this article only for the counties of Imperial, Riverside, and San Bernardino.

(f) Any person or persons engaging in the introduction of triploid grass carp into any area, or in the transfer of triploid grass carp from one site to another, without a permit from the department shall be punished by a fine of not more than five thousand dollars (\$5,000), by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

SEC. 5. Section 6458 of the Fish and Game Code is repealed.

SEC. 6. Section 6459 is added to the Fish and Game Code, to read:

6459. (a) In the report required by subdivision (c) of Section 6453, beginning in 1998, the department shall report to the appropriate policy and fiscal committees of the Legislature its findings with respect to whether the use of triploid grass carp for aquatic pest plant control may be expanded in six more southern California counties or statewide. The finding shall be based on documented and verifiable evidence.

(b) If the department finds in the report required by subdivision (c) of Section 6453 that the use of triploid grass carp may be expanded

to six more counties, beginning January 1 of the following year, the department shall authorize the use of triploid grass carp for aquatic pest plant control in the counties of San Diego, Orange, Los Angeles, Kern, Ventura, and Santa Barbara.

(c) If the department finds in the report required by subdivision (c) of Section 6453 that the use of triploid grass carp may be expanded to statewide, beginning January 1 of the following year, the department shall authorize the use of triploid grass carp for aquatic pest plant control statewide.

(d) If the department finds in the report required by subdivision (c) of Section 6453 that the use of triploid grass carp should not be expanded to six more counties or statewide, the department shall reconsider that finding in the next year's report.

(e) If the department's annual report is, for any reason, not submitted on or before June 1 of the year due, it shall be conclusively deemed to be the finding of the department that effective June 1 of that year, the use of triploid grass carp to control aquatic plant pests should be expanded statewide.

(f) Notwithstanding subdivisions (b) and (c), the department may limit permit applications to no more than 150 per fiscal year, and may prioritize the processing of permit applications for purposes of administrative and cost efficiencies.

SEC. 7. Section 6460 is added to the Fish and Game Code, to read:

6460. If the department obtains documented and verifiable evidence of escapements of triploid grass carp permitted under this article into unauthorized waters, the unauthorized use of grass carp, or threats to fish and wildlife and their habitats as the result of this program, it may, upon a written finding by the director to that effect, suspend the permit issuance process authorized by this article. If the situation is local, the suspension may be limited to that area whose waters, habitat, and fish and wildlife resources are threatened. The suspension shall last until the director makes a written finding that the threat has been abated.

